

IN THE HIGH Court OF HIMACHAL PRADESH, SHIMLA

Cr. Revision (FC) No.16 of 2026

Decided on: 23.09.2026

Panju Ram	... Petitioner
Versus	
Parvinda Kumari	... Respondent

Coram

Hon’ble Mr. Justice Ajay Mohan Goel, Judge.

Hon’ble Mr. Justice Yogesh Jaswal, Judge.

Whether approved for reporting?¹Yes

For the petitioner: Mr. Divya Raj Singh, Advocate.

For the respondent: Mr. Avinash Jaryal, Advocate.

Ajay Mohan Goel, Judge (Oral)

Heard. By way of this revision petition, the petitioner has challenged order dated 15.01.2026, passed in case bearing Filing No.643 of 2022, Registration No.50 of 2022, titled Smt.Parvinda Kumari versus Sh. Panju Ram, by the Court of learned Additional Principal Judge (Additional District Judge), Family Court, Chamba, District Chamba, H.P., in terms whereof, the petition filed by the respondent herein under Section 125 of the Code of Criminal Procedure for grant of maintenance has been allowed by the learned Court below and the petitioner herein has been directed to pay maintenance of Rs.3,000/- per month in favour of the respondent-wife from the date of filing of the petition.

2. Learned Counsel for the petitioner argued that the impugned order is *per se* bad in law, for the reason that as the wife

¹ Whether reporters of the local papers may be allowed to see the judgment?

was indulging in adultery, she was not entitled for any maintenance in light of the provisions of sub-section (4) of Section 125 of the Criminal Procedure Code. Learned Counsel submitted that this extremely important aspect of the matter was ignored by the learned Court below while passing the impugned order. Learned Counsel argued that it stood established on record that the respondent-wife was living an adulterous life and was not being subjected to any cruelty etc. by the husband and in fact, she had concocted a story to get maintenance from the husband by alleging that she was maltreated or a dowry etc. was being demanded from her and all these important aspects of the matter stood ignored by the learned Court below while passing the impugned order. Learned Counsel referred to the order under dispute and submitted that the cogent evidence led by the petitioner herein to prove that the wife was living an adulterous life was swept aside by the learned Court below without any justifiable cause or reason and the non-consideration thereof has led to grave injustice to the present petitioner. Accordingly, he submitted that as the impugned order was not sustainable in the eyes of law, the same be quashed and set aside.

3. On the other hand, learned Counsel for the respondent-wife argued that the order passed by the learned Court below was

not suffering from either any illegality or any irregularity. He argued that the allegation of the husband that the allegation that wife was living an adulterous life was not proved before the learned Court below by the husband, whereas it stood proved on record that since the year 2019, the wife was living separately and was being ill-treated by the husband and in this backdrop, the grant of maintenance at the rate of Rs.3,000/- per month is neither excessive, nor can it be said that learned Court below erred in not appreciating the evidence on record while passing the order under challenge. He, thus, submitted that as there was no merit in the present petition, the same is liable to be dismissed.

4. We have heard learned Counsel for the parties and have also carefully gone through the order under challenge as well as the averments made in the petition.

5. Learned Counsel for the petitioner has primarily argued that the order passed by the learned Court below is not sustainable in the eyes of law, as the learned Court below erred in not appreciating that as the wife was living in adultery, she was not entitled to maintenance in terms of the provisions of sub-section (4) of Section 125 of the Criminal Procedure Code. This was the ground of challenge to the order passed by the learned Court below and as far as sum of Rs.3,000/- given by way of maintenance is concerned,

on the same, no arguments were addressed.

6. Sub-section (4) of Section 125 of the Criminal Procedure Code provides that no wife shall be entitled to receive any allowance for maintenance or interim maintenance and expenses of proceeding, as the case may be, from her husband under Section 125 of the Criminal Procedure Code, if she is living in adultery, or if without any sufficient reason, she refuses to live with her husband or if they are living separately by mutual consent.

7. In the present case, the stand of the husband is that the wife is not entitled for maintenance, as she is living in adultery. A perusal of the order passed by the learned Court below demonstrates that while discarding the contention of the husband that the wife was living in adultery, it held that the statement of the husband, namely, Panju Ram (RW-1) demonstrated that he had not seen the wife in a compromising position with some other person and as per the pleadings, it was allegedly the daughter, who saw her mother with some other person in a compromising position. Learned Court below held that in these circumstances, the daughter was the best witness to depose this relevant fact, but she was not produced as a witness before the Court. Learned Court, thereafter, observed that though the stand of the husband was that the daughter was residing with his wife, but it thereafter, observed that this did not

prevent the husband from entering the name of his daughter in the list of witnesses so that her version could have been recorded by the Court. Learned Court also held that the allegation of the husband that his wife was living in adultery could have been proved by the husband by examining some of the neighbors to demonstrate that indeed, the alleged paramour of his wife was visiting their house in the absence of the husband, however, none was examined to demonstrate this fact. Thus, learned Court below held that the husband failed to place any material on record to corroborate his allegation that the wife was living in adultery.

8. This Court completely agrees with the findings so returned by the learned Court below.

9. Learned Counsel for the petitioner could not draw our attention to any evidence on record which demonstrates that the wife was indeed living in adultery. Except the bald allegation of the husband and his mother, no independent witness was examined by the husband to prove this fact. Incidentally, neither the husband nor the mother had seen the wife in a compromising position with anyone. According to the petitioner, it was their daughter who had seen the mother in a compromising position, but as observed hereinabove also, the daughter was never summoned as a witness to prove this fact in the Court. As observed by the learned Court below

also, no independent witness like a neighbor etc. was produced as a witness to demonstrate even this fact that the alleged paramour of the wife was visiting their house in the absence of the husband. All this demonstrates that indeed the husband had miserably failed to demonstrate before the learned Court below that the wife was indeed living in adultery.

10. Therefore, in light of the fact that the allegations of adultery could not be proved by the husband against the wife by leading any evidence before the learned Court below, the findings returned by the learned Court to the effect that the husband had failed to demonstrate that the wife was indeed living in adultery are correct findings and they call for no interference.

11. As far as the factum of the wife living separately from the husband is concerned, the same was not disputed during the course of arguments, but the stand of the petitioner before this Court, as was urged by his Counsel was that the wife was living separately because she was living in adultery. As observed hereinabove, as the allegation of adultery was not proved by the husband by leading any cogent evidence and on the other hand, as the wife had proved by way of her own statement and also the statement of her brother that she was being ill-treated by the husband, we do not find any infirmity in the order passed by the

learned Court below, in terms whereof, an amount of Rs.3,000/- per month has been awarded in favour of the wife as maintenance as from the date of filing the petition.

12. Accordingly, in light of our above observations, this petition is dismissed, so also pending miscellaneous application(s), if any. It is, however, clarified that the findings returned by the learned Court below, as also by this Court, shall be construed to have been returned only for the determination of the issues raised therein and herein by the parties concerned.

(Ajay Mohan Goel)
Judge

(Yogesh Jaswal)
Judge

September 23, 2026
(Rishi)